IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

Bail Appl..No. 4180 of 2007()

CRIME NO.28/07 OF KUTTANADU EXCISE.

PETITIONER/ACCUSED

REGI, AGED 37 YEARS,
S/O.PONNAPPAN, PULIMOOTIL HOUSE,
RAMANKARI P.O., ALAPPUZHA.

BY ADV. SRI.SAIBY JOSE KIDANGOOR

RESPONDENTS: STATE & COMPLAINANT
---

1. STATE OF KERALA REP.BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

2. EXCISE RANGE OFFICER,
KUTTANADU.

BY PUBLIC PROSECUTORS.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. NO. 4180 OF 2007

Dated this the 17th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner is the 2nd accused. Altogether, there are three accused persons. Excise Officials had allegedly intercepted the 1st accused with 70 litres of spirit on 26/5/07. He was allegedly transporting the contraband liquor in a car. Even in the seizure mahazar and in the occurrence report it is mentioned that the transportation was at the instance of the 3rd accused and in collusion with the 2nd accused. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His name has been unnecessarily dragged into the controversy. It is prayed that directions under Sec.438 of the Cr.P.C. may be issued in favour of the petitioner.

3. The learned Public Prosecutor opposes the application . All available indications point to the culpability of the petitioner. There are no circumstances justifying the invocation of the jurisdiction under Sec.438 of the Cr.P.C. In these circumstances, this petition may be dismissed, it is prayed.

4. I find merit in the opposition by the learned Public Prosecutor. All the contemporaneous records indicate the available involvement of the petitioner. At any rate, I find no circumstances to invoke the powers under Sec.438 of the Cr.P.C. This, I am satisfied, is an eminently fit case where the petitioner/2nd accused must appear before the learned Magistrate and seek regular bail in the ordinary course.

5. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer of the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

Nan/ //true copy// P.S. To Judge